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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,271	10/20/2003	Ronald Michalski	71-844-1	3786

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EXAMINER	
CHAN, SING P	

ART UNIT	PAPER NUMBER
1734	

DATE MAILED: 05/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/688,271	MICHALSKI ET AL.	
	Examiner	Art Unit	
	Sing P Chan	1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 9-21 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 9-21 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 20 October 2003 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 10/20/2003.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the abstract is more than 150 words. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Winn, Deceased (U.S. 5,168,883).

Regarding claim 9, Winn discloses a method of applying tax stamps to cigarettes in cartons. The method includes providing a conveyor to covey the different cigarette cartons, determining the height dimension of the cigarette cartons, providing a tax stamp applicator at a cigarette package tax stamp application station, and automatically adjusting the height of the applicator corresponding to the determined height of the carton to properly apply individual cigarette tax stamp onto individual cigarette packages. (Col 3, lines 24-51 and Col 4, lines 5-54)

Regarding claim 10, Winn discloses a carton opening station between height determination station and tax stamp application station to open the cigarette cartons and a cigarette cartons closing station for closing the cigarette cartons after the tax stamps are applied. (Col 3, lines 53-64 and Col 4, lines 55-61)

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winn, deceased (U.S. 5,168,883) as applied to claim 10 above, and further in view of Price (U.S. 4,317,319).

Winn as disclosed above is silent as to automatically adjusting the height of the closing means to the height dimension of the carton. However, adjusting the height of the carton closing means is well known and conventional as shown for example by Price. Price discloses a method of automatically close box with height sensing. The method includes providing an optical sensors to sense the height of the box and adjusting the sealing head to the proper height to close and seal the box. (Col 5, line 27 to Col 6, line 26)

It would have been obvious to one skilled in the art at the time the invention was made to provide an automatically adjusting means to automatically adjust the height of the closing head as disclosed by Price in the method of Winn to close and seal the cartons of various sizes quickly and continuously without the need to stop and adjust the height manually.

6. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winn, deceased (U.S. 5,168,883) in view of Price (U.S. 4,317,319) as applied to claim 11 above, and further in view of Teegarden et al (U.S. 5,207,331).

Regarding claims 12 and 14, Winn discloses a motor, i.e. a servo drive, is used to automatically adjust the height of the case-packing mechanism to case height. (Col 5, lines 41-50) Winn is silent as to the logic controller is a programmable logic controller with memory of the height dimension of the cartons. However, providing a programmable logic controller with memory of the height dimension of the cartons is well known and conventional as shown for example by Teegarden et al. Teegarden et al discloses a method of conveying boxes or cartons of various sizes. The method includes providing a programmable logic controller with memory of the height dimension of the cartons and determining the height of the cartons to properly convey the carton to the correct location. (Col 12, lines 37-60 and Col 19 line 63 to Col 20, line 32)

It would have been obvious to one skilled in the art at the time the invention was made to provide a programmable logic controller with memory of the height dimension of the cartons as disclosed by Teegarden et al in the method of Winn to allow an operator to track and control the conveying and application of stamps process easily without the need to an manual adjustment.

Regarding claim 13, Winn discloses the stations are equally spaced and the conveyor includes pads equally spaced on the chain for pushing the cartons at equal predetermined distance through the equally spaced stations. (Col 3, lines 24-28 and Figure 1)

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winn, deceased (U.S. 5,168,883) as applied to claim 9 above, and further in view of Baker et al (U.S. 4,263,766).

Regarding claim 15, Winn discloses the stamping station includes a roll stamps holder for supporting the roll of stamps, linearly longitudinally moving the tax stamp applicator in incremental steps to place the stamping head onto the tax stamp paper with rows of tax stamps and transfer the tax stamp onto the cigarette cartons. (Col 4, lines 20-54) Winn is silent as to the stamping head includes longitudinally spaced stamping shoes. However, providing longitudinally spaced stamping shoes is well known and conventional as shown for example by Baker et al. Baker et al discloses a method of applying tax stamp onto the cigarette cartons. The method includes providing a stamp head with longitudinally spaced stamping plate elements, i.e. stamping shoes, which heat the individual stamp on the tax stamp paper. (Col 11, lines 20-27)

It would have been obvious to one skilled in the art at the time the invention was made to provide longitudinally spaced stamping shoes, which heat the individual stamp on the tax stamp paper as disclosed by Baker et al in the method of Winn to allow a larger number of tax stamps to be place on the tax stamp paper to reduce the size of the tax stamp support and reduce waste.

8. Claims 16, 18, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winn, deceased (U.S. 5,168,883) in view of Price (U.S. 4,317,319).

Regarding claim 16, Winn discloses a method of applying tax stamps to cigarettes in cartons. The method includes providing a conveyor to covey the different cigarette cartons, determining the height dimension of the cigarette cartons, providing a tax stamp applicator at a cigarette package tax stamp application station, and automatically adjusting the height of the applicator corresponding to the determined height of the carton to properly apply individual cigarette tax stamp onto individual cigarette packages. (Col 3, lines 24-51 and Col 4, lines 5-54) Winn is silent as to automatically adjusting the height of the closing means to the height dimension of the carton. However, adjusting the height of the carton closing means is well known and conventional as shown for example by Price. Price discloses a method of automatically close box with height sensing. The method includes providing an optical sensors to sense the height of the box, electrically wire the sensor to the logic controller and adjusting the sealing head to the proper height to close and seal the box. (Col 5, line 27 to Col 6, line 26)

It would have been obvious to one skilled in the art at the time the invention was made to provide an automatically adjusting means to automatically adjust the height of the closing head as disclosed by Price in the method of Winn to close and seal the cartons of various sizes quickly and continuously without the need to stop and adjust the height manually.

Regarding claim 18, Winn discloses a pair of pinch bars squeezes the carton and pops up the flaps, i.e. domed upward, and insert a plow knife to open the flaps. (Col 3, line 57 to Col 4, line 4)

Regarding claim 20, Winn discloses the closing station includes a glue trough, a glue applicator wheel for applying glue to the undersurface of the upper carton flap, flap closer, and a pressure plate and roller for pressing the flaps closed. (Col 4, line 55 to Col 5, line 6)

Regarding claim 21, Winn discloses the stations are equally spaced and the conveyor includes pads equally spaced on the chain for pushing the cartons at equal predetermined distance through the equally spaced stations. (Col 3, lines 24-28 and Figure 1)

9. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winn, deceased (U.S. 5,168,883) in view of Price (U.S. 4,317,319) as applied to claim 16 above, and further in view of Teegarden et al (U.S. 5,207,331).

Winn as modified above is silent as to the logic controller is a programmable logic controller with memory of the height dimension of the cartons. However, providing a programmable logic controller with memory of the height dimension of the cartons is well known and conventional as shown for example by Teegarden et al. Teegarden et al discloses a method of conveying boxes or cartons of various sizes. The method includes providing a programmable logic controller with memory of the height dimension of the cartons and determining the height of the cartons to properly convey the carton to the correct location, which also detect the presence of the boxes. (Col 12, lines 37-60 and Col 19 line 63 to Col 20, line 32)

It would have been obvious to one skilled in the art at the time the invention was made to provide a programmable logic controller with memory of the height dimension

of the cartons as disclosed by Teegarden et al in the method of Winn to allow an operator to track and control the conveying and application of stamps process easily without the need to an manual adjustment.

10. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winn, deceased (U.S. 5,168,883) in view of Price (U.S. 4,317,319) as applied to claim 16 above, and further in view of Baker et al (U.S. 4,263,766).

Winn discloses the stamping station includes a roll stamps holder for supporting the roll of stamps, linearly longitudinally moving the tax stamp applicator in incremental steps to place the stamping head onto the tax stamp paper with rows of tax stamps and transfer the tax stamp onto the cigarette cartons. (Col 4, lines 20-54) Winn is silent as to the stamping head includes longitudinally spaced stamping shoes. However, providing longitudinally spaced stamping shoes is well known and conventional as shown for example by Baker et al. Baker et al discloses a method of applying tax stamp onto the cigarette cartons. The method includes providing a stamp head with longitudinally spaced stamping plate elements, i.e. stamping shoes, which heat the individual stamp on the tax stamp paper. (Col 11, lines 20-27)

It would have been obvious to one skilled in the art at the time the invention was made to provide longitudinally spaced stamping shoes, which heat the individual stamp on the tax stamp paper as disclosed by Baker et al in the method of Winn to allow a larger number of tax stamps to be place on the tax stamp paper to reduce the size of the tax stamp support and reduce waste.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sing P Chan whose telephone number is 571-272-1225. The examiner can normally be reached on Monday-Friday 7:30AM-11:15AM and 12:15PM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard D Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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